

PTO: TASK COORDINATION: 173

Documentation related to why and how the type and placement of fence was decided by CBP under the Secure Fence Act of 2006, or any other fence constructed since 2006.

RESPONSE:

The vast majority of fencing was not constructed under the Secure Fence Act of 2006 (SFA), but rather pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), as amended. 8 U.S.C. § 1103 note. There were two key provisions in the SFA. Section 2 of the SFA set out a requirement that the Secretary of Homeland Security (the Secretary) achieve and maintain operational control of the border. Public Law 109-367, § 2, 8 U.S.C. § 1701 note (Oct. 26, 2006). In Section 3 of the SFA, Congress amended Section 102(b) IIRIRA to require that the Secretary construct hundreds of miles of new fencing in specific locations that were identified by Congress in the actual text of the statute. Public Law 109-367, § 3, 120 Stat. 2638 (Oct. 26, 2006). In 2007, however, Congress repealed Section 3 of the SFA. Congress replaced Section 3 of the SFA with the current language in Section 102(b) of IIRIRA, which directs that the Secretary, among other things, construct additional fencing and infrastructure on the southern border where it would be most practical and effective. Public Law 110-161, Div. E, Title V, § 564, 121 Stat. 2090 (Dec. 26, 2007). The full text of Section 102 of IIRIRA, which sets forth the Secretary's general authority to build fence and the waiver authority, is found at 8 U.S.C. § 1103 note.

Each segment of the border is unique. Numerous operational challenges exist for Border Patrol agents to gain access to patrol the border and provide border security. U.S. Customs and Border Protection (CBP) constructed border fencing (b) (7)(E)

The decision process is complex. The operational needs of law enforcement remains a primary consideration. (b) (7)(E)

Four main factors contribute to final fence location decisions:

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These analyses yielded an overall assessment, and CBP takes appropriate steps to ensure these factors are incorporated into the final decision. Once fencing is chosen as a solution, CBP determines the type of

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fence (pedestrian or vehicle, along with which design will be most effective). The purpose is to make informed decisions that provide agents with the right resources to effectively perform their priority homeland security mission, while taking into consideration the needs of those who live in border communities.

Please note that while tactical fencing provides a persistent method to impede illegal cross-border activity, it is not the only solution to mitigate capability gaps. Rather it is one element of a system making up USBP's multilayered approach to national security. (b) (7)(E)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. All efforts are geared towards attaining maximum situational awareness, operational efficiency, and a safer environment for USBP agents.

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